

REMARKS

Claim 1 has been amended to include the subject matter of claim 14 and claim 14 has been canceled; claim 9 has been amended to include the subject matter of claim 15 and claim 15 has been canceled; Claim 16 has been amended to include the subject matter of claim 17 and claim 17 has been canceled. Claims 18-26 have been added. Support for new claims 18-19, 21-22, and 24-25 may be found in Figures 12-13 and on page 19 of the specification, and support for new claims 20, 23, and 26 may be found in Figures 13 and 18 and on pages 20 and 23 of the specification. Upon entry of this amendment, claims 1-13, 16, and 18-26 will be in the application. No new matter has been introduced by these amendments and new claims.

Rejection under 35 U.S.C. §103(a) over Christie et al.

In the Official Action, claims 1-17 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S . Patent Application No. 2004/0057427 (Christie et al .) in view of U.S. Patent No. 5,930,348 (Regnier et al.). Withdrawal of this rejection is respectfully requested.

As noted in the previous amendment response, Christie et al. disclose a communications system that enables number portability by providing a tandem "system" including a signaling processor and an ATM cross-connect (Figure 3). Although the ATM cross-connect does not perform all types of tandem routing performed by a conventional tandem switch, such a tandem "system" is desired by Christie et al. over conventional tandem switches since it is significantly less expensive. As acknowledged by the Examiner, Christie et al. do not teach "that the system can be connected to another tandem" and thus also do not teach a "network" connecting the switch to the public and private wireline and wireless carrier networks and to "tandem switches" of the public and private wireline and wireless carrier networks as claimed. However, the Examiner cites Regnier et al. for the teaching that connecting one tandem switch to another is old in the art and that it would have been obvious to one skilled in the art at the time of the invention to use tandem to tandem switching as taught by Regnier et al. in the system taught by Christie et al. Applicant submits that even if one skilled in the art were to make such a modification that the claimed invention would not have resulted. Accordingly, the rejection is respectfully traversed.

As set forth in M.P.E.P. §§2142-2143.03, in order to establish a *prima facie* case of obviousness, patent examiners are required to establish three criteria: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference, or combination of references, must teach or suggest all the claim limitations. The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To make a proper obviousness determination, the examiner must “step backward in time and into the shoes worn by the hypothetical ‘person of ordinary skill in the art’ when the invention was unknown and just before it was made.” In view of the available factual information, the examiner must make a determination as to whether the claimed invention “as a whole” would have been obvious at that time to a person of ordinary skill in the art. Importantly, a rejection based on these criteria must be based on what is taught in the prior art, not the applicant’s disclosure. The applicant’s disclosure may not be used as a blueprint from which to construct an obviousness rejection.

In the Official Action, the Examiner has provided no suggestion or motivation to combine the teachings of Christie et al. and Regnier et al. Thus, no *prima facie* obviousness is made out and the rejection must be withdrawn. Moreover, even if one skilled in the art would have been motivated by Regnier et al. to modify the Christie et al. system to provide tandem to tandem switching as the Examiner suggests, such a modified system would fall far short of the claimed invention as the combination of teachings does not teach or suggest all of the claimed limitations including, for example:

a network connecting said tandem access points to said at least one switch and said network managing the efficient routing of transit traffic between said plurality of tandem access points and said switch.

Applicant submits that the direct links connecting tandem nodes in Regnier et al. clearly do not constitute a “network connecting said tandem access points to said at least one switch.” Moreover, neither Christie et al. nor Regnier et al. suggest the use of such a network to manage “the efficient routing of transit traffic between said plurality of tandem access

points and said switch.” On the contrary, in the Christie et al. system, if the call is routed over a first carrier’s transport then through the ATM cross-connect to a second carrier’s transport, the call is not completed if the second carrier does not have sufficient capacity. Similarly, Regnier et al. simply references tandems as an intermediary switching platform in call routing—*i.e.*, the path for a secondary call termination. Regnier et al. clearly do not teach the use of a routing tandem network that links tandem access points and tandems together so as to provide an end to end managed tandem network that manages the efficient routing of transit traffic (even across different protocols) amongst tandems as claimed. The claimed “distributed switching network” of the invention provides such management capabilities as now set forth in amended independent claims 1, 9, and 16. Accordingly, even if the teachings of Christie et al. and Regnier et al. could have been combined as the Examiner suggests, the lack of teachings of the claimed “distributed switching network” and associated claimed functions in either reference separately or taken together show that the Examiner clearly has not met the initial burden of factually supporting any *prima facie* conclusion of obviousness. The obviousness rejection thus cannot be sustained and withdrawal is solicited.

In sum, neither Christie et al. nor Regnier et al. provide tandem switching and transport functionality among tandem switches in an end-to-end managed Neutral Tandem Network as claimed. Absent any teachings of the claimed network connecting and operating the tandem access points as claimed, withdrawal of the rejection of claims 1-13 and 16 over Christie et al. and Regnier et al. and allowance of claims 1-13, 16, and 18-26 is proper and is respectfully solicited.

Conclusion

Applicant requests withdrawal of the outstanding obviousness rejection and issuance of a Notice of Allowability. The Examiner is encouraged to contact the undersigned representative with any questions or to discuss any issues that may impede an early allowance of the application.

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Michael P. Dunnam

Michael P. Dunnam
Registration No. 32,611

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439